

**BEFORE THE STATE BOARD OF MEDIATION
STATE OF MISSOURI**

PROFESSIONAL FIRE FIGHTERS OF ST.))	
LOUIS COUNTY, LOCAL 2665, IAFF,))	
AFL-CIO, CLC,))	
)	
Petitioner,))	
)	
v.))	Public Case R 89-015
)	
ROCK TOWNSHIP AMBULANCE))	
DISTRICT,))	
)	
Respondent.))	

JURISDICTIONAL STATEMENT

This case appears before the State Board of Mediation upon the filing by Professional Fire Fighters of St. Louis County, Local 2665, of a petition for certification as public employee representative of certain employees of the Rock Township Ambulance District. A hearing was held on May 11, 1989, in St. Louis County at which representatives of Local 2665 and the District were present. The case was heard by State Board of Mediation Chairman, Mary L. Gant; employee member, J. Harvey Henry; and employer member, Milton O. Talent. The State Board of Mediation is authorized to hear and decide the issues concerning appropriate bargaining units by virtue of Section 105.525, RSMo 1986.

At the hearing, the parties were given full opportunity to present evidence. The Board, after a careful review of the evidence, sets forth the followings findings of fact and conclusions of law.

FINDINGS OF FACT

Rock Township, located in northern Jefferson County, Missouri, has established the Rock Township Ambulance District to provide emergency medical care and transportation and non-emergency transportation to the ill and injured located within or near the boundaries of the township. The District, at the time of the hearing, employed

22 people, consisting of an administrator, an assistant administrator, clerical staff, twelve paramedics and three or four emergency medical technicians (EMTs).

The District maintains one station and operates with three crews which work rotating 24 hour shifts. When there is a full complement, six of the District's paramedics and EMTs are assigned to each crew. Each crew is divided into three sub-crews of two and each sub-crew is assigned to a separate ambulance. One of the six in each crew is the crew chief. The crew chief may be either a paramedic or an EMT.

All operations of the District are administered and directed by the administrator subject to approval by the district's board of directors. The assistant administrator assists the administrator in his duties and acts as administrator in the administrator's absence. Both the administrator and the assistant administrator have authority over the crew chiefs. Normally, the administrator and assistant administrator work Monday through Friday from 9:00 a.m. to 5:00 p.m. During the periods of time when the administrator and assistant administrator are off work, the crew chief of the particular shift on duty is in charge of all operations at the District. Generally, either the administrator or assistant administrator will remain on call as a duty officer to be contacted by the crew chief on duty for any directions needed. In the event both the administrator and assistant administrator are out of town at the same time, the crew chief on duty is the acting administrator of the District.

During their 24 hour shifts, crew chiefs live in the station with their crews. Crew chiefs and their crews eat in the same area, sleep in the same area, and share the household chores such as cleaning and maintenance of vehicles. As members of sub-crews, crew chiefs work alongside the members of their crews in providing medical assistance and transportation.

Crew chiefs see that routine daily and monthly tasks as well as special tasks ordered by the administrator, are done correctly. They are responsible for assigning the proper crew member to perform each task. The crew chiefs also assist in the

performance of these tasks. A daily log is maintained by the crew chief in which they mark down the completion of the routine duties. If a crew chief discovers that a task has not been properly performed, he or she will check with the crew member assigned to the task, determine the cause, and see that the task is properly completed.

The accountability of crew chiefs for their crews' performance is illustrated by one former crew chief's testimony that he tried to assign other crew members to do such tasks as running errands and picking up supplies because he had to be available to handle problems as they arose during his shift and to assign tasks to the crew.

Each morning, at the beginning of the shift, the crew chief decides which sub-crew of two is to have which ambulance during the shift. The crew chief may alter these ambulance assignments each day or even during the course of a shift if he or she deems such a change beneficial. The crew chief also determines which ambulance and sub-crew will go out first each day. Normally, the ambulance responds to calls on a rotating basis. The crew chief, however, has the authority to change the order of the rotation during the shift. Crew chiefs also assign which sub-crews are to make special runs to pick up equipment left at hospitals or to pick up and deliver packages and supplies. Crew chiefs are responsible for keeping track of all crew members and ambulances.

Non-emergency requests for an ambulance to transport patients from, to, or between hospitals, known as transfers, are generally to be handled accordingly to specific written instructions contained in a memorandum written by the administrator. Pursuant to these instructions, a crew chief has no discretion to turn down a transfer. Crew chiefs, however, retain discretion in determining which sub-crew will take the transfer. Moreover, if all sub-crews are on emergency runs, it is understood by crew chiefs that a transfer may be turned down. Alternatively, the crew chief normally may put the transfer on hold until an ambulance completes its emergency run and is in a position to take the transfer.

The crew chiefs also must check each day the books kept by the District's six special officers. These six officers are drawn from the crew members of the District's three crews. There is one officer each for supply, training, public relations, building maintenance, vehicle maintenance, and disaster preparation. By checking the officer books, the crew chiefs are kept abreast of the work of these officers and can make plans accordingly. For example, if the public relations officer has scheduled a CPR training class for a local group at the station for a particular time, it is the crew chief's responsibility to ensure that the building is set up properly for the class and that the appropriate equipment and personnel are available.

While crew members are serving in their capacity as officers, the crew chief is still their direct supervisor. If a problem arises for an officer, such as needing extra time to complete the special duties during the time the crew is on duty, the officer may go to the crew chief who can arrange for that officer to have the extra time.

A crew chief is paid an annual base salary of \$1,100.00 more than a paramedic with equal seniority. Evidence presented by both Local 2665 and the District established this salary differential is due not to greater ability by crew chiefs to provide medical assistance, but rather to the special duties assigned to crew chiefs. The assistant administrator specifically testified that the crew chiefs are paid more because of their responsibility to directly supervise their crews.

When a new crew member must be hired in the District, crew chiefs participate in interviewing and assessing the candidate for the opening. If there are several applicants, a hiring committee, consisting of the assistant administrator and the three crew chiefs, is convened to review them. If only one or two are applying for a position, the only crew chief who participates in the review of the candidate is the one on whose crew the opening exists. The administrator has the ultimate authority to make hiring decisions, but the view of the crew chief on the applicants are given importance by the

administrator. If a crew chief thinks a person unqualified, that person typically would not be hired.

Crew chiefs also perform both quarterly and annual evaluations of their crews. In these written evaluations crew members are rated in a number of categories and also receive individualized comments on their performance. At the request of a crew member, these evaluations will be reviewed by the administrator. Such requests do not appear to be typical. Each year crew members are eligible for a raise of up to \$1,100.00. The exact amount of the raise is based in significant part on their evaluations.

Crew chiefs have authority to approve or disapprove crew members' requests for schedule changes. Crew members wanting a scheduling change must submit written requests at least 48 hours in advance.

Generally, crew chiefs are responsible for the conduct of their crew members. Any crew member who violates District policy, or procedure, is to be dealt with by the crew chief. Crew chiefs have authority to investigate violations of District policy or procedure and to impose disciplinary sanctions if they judge it necessary. Types of discipline actually imposed by crew chiefs are verbal warnings, written warnings, disciplinary probation, and relief from duty for the day. Crew chiefs may also recommend to the administrator that a crew member be discharged from employment. In the one instance in which a crew chief actually recommended discharge, the employee was discharged.

CONCLUSIONS OF LAW

Local 2665 is seeking to be certified as public employee representative of a bargaining unit comprised of the full-time paramedics and emergency medical technicians employed by the Rock Township Ambulance District. The sole contested issue in this case is whether or not the crew chiefs are supervisors. The District contends that the three crew chiefs are supervisory employees and, for that reason,

should be excluded from the bargaining unit. Local 2665 disputes the contention and argues that the crew chiefs are not true supervisors and therefore should be included in the bargaining unit.

An appropriate bargaining unit is defined by Section 105.500 (1) RSMo 1978 as:

A unit of employees at any plant or installation or in a craft or in a function of a public body which establishes a clear and identifiable community of interest among the employees concerned.

Missouri statutory law does not provide further guidelines for determining what constitutes a "clear and identifiable community of interest." However, the Board has consistently held that supervisors cannot be included in the same bargaining unit as the employees they supervise. MNEA, Springfield Educ. Support Personnel v. Springfield R-12 School Dist., Public Case No. UC 88-021 (SBM 1988); see also Golden Valley Mem. Hosp. v. Missouri State Bd. of Mediation, 559 S.W.2d 581, 583 (Mo. App. 1977).

In determining the supervisory status of employees within bargaining units, the Board has consistently examined the following factors:

- (1) The authority to effectively recommend the hiring, promotion, transfer, discipline, or discharge of employees.
- (2) The authority to direct and assign the work force, including a consideration of the amount of independent judgment and discretion exercised in such matters.
- (3) The number of employees supervised and the number of other persons exercising greater, similar, or lesser authority over the same employees.
- (4) The level of pay including an evaluation of whether the supervisor is paid for a skill or for supervision of employees.
- (5) Whether the supervisor is primarily supervising an activity or primarily supervising employees.
- (6) Whether the supervisor is a working supervisor or whether he spends a substantial majority of his time supervising employees.

Crew chiefs play a significant role in the District's personnel decisions, including effective recommendation of the courses to be followed with respect to many types of personnel questions. They participate in interviewing and assessing applicants for

paramedic and EMT positions. Participation in the interview process for new employees was cited as a significant reason for concluding that the position of paymaster was a supervisory one in Civilian Personnel Div., St. Louis Police Officers Assn. v. City of St. Louis, Bd. of Police Comm'rs., Public Case No. 84-116, at p. 18-19, (SBM 1985). Crew chief views on applicants are important to the administrator, who has ultimate authority to make hiring decisions. Crew chiefs exercise a sort of veto power over new crew members in that an applicant the crew chief thinks unqualified, typically, will not be hired.

Crew chiefs also perform written evaluations of their crew members which play a significant role in the amount of raise the crew members receive each year. In Service Employees' Int'l. Union, Local 50 v. Meramec Valley R-3 School Dist., Public Case No. R 88-001, at p. 7, (SBM 1987), the reliance of the school board on the evaluations by head cooks of the other cooks in deciding which cooks to retain was an important factor in this Board's decision that the head cooks were supervisors. Moreover, the use of the crew chief's evaluation in this case in determining pay raises contrasts with the negligible role evaluations played in personnel decisions in other cases in which the employees performing the evaluation were determined not to be supervisors. See International Assn. of Fire Fighters, Local 2665 v. Riverview Fire Protection Dist., Public Case No. R 87-017, at p. 8, (SBM 1987); International Assn. of Fire Fighters, Local 2665 v. City of Frontenac, Public Case No. R 86-010, at p. 6 (SBM 1986).

Crew chiefs have authority to approve or disapprove crew members' requests for schedule changes. They also are responsible for investigating violations of District policy or procedure and have the power, which they have exercised, to impose certain disciplinary sanctions, such as warnings, placement on probation, and relief from duty for the day, when they judge it necessary. Additionally, in the one instance in which a crew chief recommended that a crew member be discharged, the crew member was discharged.

Crew chiefs are responsible for assigning particular crew members to perform both the routine daily and monthly tasks and the special tasks ordered by the administrator. Crew chiefs must also ensure that the tasks are performed correctly.

The crew chief determines which crew members will be in which ambulance and which ambulance will respond to which emergency calls and transfers. Although the ambulances normally respond accordingly to a rotation system, the crew chief may alter the rotation when he or she thinks it necessary. For example, if one of the crew members who is also serving as an officer needs extra time to complete his or her duties, the crew chief can hold the officer's ambulance at the station and send only the other two sub-crews for a while. Also, if an officer has scheduled some type of activity of the public at the station, the crew chief is to make assignments so that the crew members needed in the activity will be present for it. Crew chiefs are responsible for keeping track of where all ambulances and crew members are at all times.

The crew chiefs exercise independent judgment and discretion in directing and assigning their crews by necessity because they are the highest ranking officers at the station for 16 hours every day through the week and all day on weekends. See Service Employees Int'l Union, Local 50 v. St. Louis Public Library Sys., Public Case No. 81-010, at p. 6, (SBM 1982). During these times the crew chiefs of the particular crew on duty is in charge of all operations at the District. Although either the administrator or assistant administrator generally remains on call to provide any guidance needed by crew chiefs, there is no indication that crew chiefs commonly need or request such guidance. In those instances in which the administrator and assistant administrator are out of town, the crew chief on duty takes over as acting administrator.

When a crew is at its full complement of paramedics and EMTs, each crew chief exercises authority over 5 crew members. The crew chiefs are subject to the authority of the administrator and assistant administrator. The small number of those subordinates to crew chiefs could be an indication that crew chiefs are not supervisors.

This factor, however, is not the sole consideration. It can be counterbalanced by the Board's findings with respect to the five other factors it considers in determining supervisory status of a particular position. See Service Employees Int'l. Union, Local 50 v. Meramec Valley R-3 School Dist., Public Case No. R 88-001, at p. 6 (SBM 1987) (head cooks supervisors despite having an average of only two subordinates each); Civilian Personnel Div., St. Louis Police Officers Assn. v. City of St. Louis Bd. of Police Comm'rs., Public Case No. 84-116, at p. 18, (SBM 1985) (paymaster a supervisor despite having only five subordinates);

In this case it is particularly relevant that, despite exercising authority over only five subordinates and being subordinate to two other employees of the District, the crew chiefs are, as discussed above, the highest ranking officers at the station for all but forty hours out of the 168 hours each week that the station operates. During the 128 hours each week when the administrator and assistant administrator are not on active duty, the crew chiefs are the ones to direct and assign the crew members and to assure that the District's policies and procedures are followed. The crew chiefs' authority to perform these functions, as also discussed above, is substantial and not just illusory.

Crew chiefs receive a base salary of \$1,100.00 more than paramedics of comparable seniority. Crew chiefs are paid more not because of their greater skill in providing medical assistance, but, rather, because of their responsibilities to directly supervise their crews.

Crew chiefs work alongside crew members both in providing medical assistance and transportation to the sick and injured and in completing the routine and special tasks that must be done at the station. They also eat and sleep in the same areas as their crew members. Despite sharing the work with their crew members and working under identical conditions, crew chiefs are more than simply working foremen who primarily supervise an activity instead of employees. The sharing of the work and the working conditions is largely necessitated by the small number of crew members on

each shift. All, including the crew chiefs, must work together if the work is to be completed. This does not preclude a conclusion that crew chiefs are true supervisors. See International Assn. of Fire Fighters, Local 2543 v. City of Poplar Bluff, Public Case No. 81-029, at p. 4 and 7, (SBM 1982).

In addition to the work they share with crew members, crew chiefs have responsibility to assign crew members to various tasks, to assure the proper performance of such tasks by the crew members, to determine which ambulances make which runs, to assign crew members to particular ambulances, to keep track of all ambulances and crew members, to make and recommend personnel decisions, to perform employee evaluations, and to generally take charge of the District's operations while the administrator and assistant administrator are off duty. Given the supervisory nature and the substantiality of these responsibilities, crew chiefs necessarily spend a substantial majority of their time supervising their crew members and must be said to be primarily engaged in the supervision of employees rather than the supervision of an activity.

In view of all of the foregoing, this Board concludes that the crew chiefs are true supervisors and therefore must be excluded from the appropriate bargaining unit.

DECISION

It is the decision of the State Board of Mediation that an appropriate bargaining unit of employees is as follows: All employees of the Rock Township Ambulance District, excluding the administrator, assistant administrator, office clerical employees, crew chiefs and part-time employees.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the Chairman of the State Board of Mediation, or her designated representative, among the employees in the unit found appropriate, as early as possible, but not later than thirty days from the date

below. The exact time and place will be set forth in the notice of election to be issued subsequently, subject to the Board's rules and regulations. Eligible to vote are those in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during the period because of vacation or illness. Ineligible to vote are those employees who quit or were discharged for cause since the designated payroll period and who have not been rehired or reinstated before the election. Those eligible to vote shall vote whether or not they desire to be represented for the purposes of exclusive representation by Local 2665, International Association of Fire Fighters.

It is hereby ordered that the District shall submit to the Chairman of the State Board of Mediation, as well as to Local 2665, within seven days from the date of this decision, an alphabetical list of names and addresses of employees in the unit determined above to be appropriate who were employed during the payroll period immediately preceding the date of this decision.

Signed this 25th day of September, 1989.

STATE BOARD OF MEDIATION

/s/ Mary L. Gant

Mary L. Gant, Chairman

(SEAL)

/s/ Milton O. Talent

Milton O. Talent, Employer Member

/s/ J. Harvey Henry

J. Harvey Henry, Employee Member